

Commission's regulations (47 C.F.R. 54.301 et seq.); or

"(B) are within or comprised of any census tract—

"(i) the poverty level of which is at least 30 percent (based on the most recent census data); or

"(ii) the median family income of which does not exceed—

"(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income; and

"(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

"(3) DESIGNATION OF CENSUS TRACTS.—The Commission shall, not later than 90 days after the date of the enactment of this section, designate and publish those census tracts meeting the criteria described in paragraph (2)(B)."

#### SEC. 8. COMMISSION AUTHORIZED TO PRESCRIBE JUST AND REASONABLE CHARGES.

The Federal Communications Commission may impose penalties under section 503 of the Communications Act of 1934 not to exceed \$1,000,000 for any violation of provisions contained in, or amended by, section 5, 6, or 7 (or any combination thereof) of this Act. Each distinct violation shall be a separate offense, and in the case of a continuing violation, each day shall be deemed a separate offense, except that the amount assessed for any continuing violation shall not exceed a total of \$10,000,000 for any single act or failure to act described in section 5, 6, or 7 (or any combination thereof) of this Act.

#### SEC. 9. CLARIFICATION OF CONTINUING OPERATION OF ANTITRUST LAWS.

Section 601(b) of the Telecommunications Act of 1996 (Public Law 104-104; 110 Stat. 143) is amended by adding at the end the following new paragraph:

"(4) CONTINUING OPERATION OF THE ANTITRUST LAWS.—Paragraph (1) shall be interpreted to mean that the antitrust laws are—

"(A) not repealed by,

"(B) not precluded by,

"(C) not diminished by, and

"(D) not incompatible with,

the Communications Act of 1934, this Act, or any law amended by either such Act."

The CHAIRMAN. No further amendment to the bill, as amended, shall be in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The Committee will rise informally.

The Speaker pro tempore (Mr. WELDON of Florida) assumed the chair.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Evans, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

#### INTERNET FREEDOM AND BROADBAND DEPLOYMENT ACT OF 2001

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in part B of House Report 107-361.

PART B AMENDMENT NO. 1 OFFERED BY MR. UPTON

Mr. UPTON. Mr. Chairman, I offer amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 1 offered by Mr. UPTON:

At the end of the bill, add the following new section:

#### SEC. 9. COMMON CARRIER ENFORCEMENT.

(a) CEASE AND DESIST AUTHORITY.—Section 501 of the Communications Act of 1934 (47 U.S.C. 501) is amended—

(1) by striking "Any person" and inserting "(a) FINES AND IMPRISONMENT.—Any person";

(2) by adding at the end the following new subsection:

"(b) CEASE AND DESIST ORDERS.—If, after a hearing, the Commission determines that any common carrier is engaged in an act, matter, or thing prohibited by this Act, or is failing to perform any act, matter, or thing required by this Act, the Commission may order such common carrier to cease or desist from such action or inaction."

(b) FORFEITURE PENALTIES.—Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended—

(1) in paragraph (2)(B)—

(A) by striking "exceed \$100,000" and inserting "exceed \$1,000,000"; and

(B) by striking "of \$1,000,000" and inserting "of \$10,000,000";

(2) in paragraph (2)(C), by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (C)";

(3) by redesignating subparagraphs (C) and (D) of paragraph (2) as subparagraphs (D) and (E), respectively;

(4) by inserting after subparagraph (B) of paragraph (2) the following new subparagraph:

"(C) If a common carrier has violated a cease and desist order or has previously been assessed a forfeiture penalty for a violation of a provision of this Act or of any rule, regulation, or order issued by the Commission, and if the Commission or an administrative law judge determines that such common carrier has willfully violated the same provision, rule, regulation, that this repeated violation has caused harm to competition, and that such common carrier has been assessed a forfeiture penalty under this subsection for such previous violation, the Commission may assess a forfeiture penalty not to exceed \$2,000,000 for each violation or each day of continuing violation; except that the amount of such forfeiture penalty shall not exceed \$20,000,000."; and

(5) in paragraph (6)(B), by striking "1 year" and inserting "2 years".

(c) EVALUATION OF IMPACT.—

(1) EVALUATION REQUIRED.—Within one year after the date of enactment of this Act, the Federal Communications Commission shall conduct an evaluation of the impact of the increased remedies available under the amendments made by this section on improving compliance with the requirements of the Communications Act of 1934, and with the rules, regulations, and orders of the Commission thereunder. Such evaluation shall include—

(A) an assessment of the number of enforcement proceedings commenced before and after such date of enactment;

(B) an analysis of any changes in the number, type, seriousness, or repetition of violations; and

(C) an analysis of such other factors as the Commission considers appropriate to evaluate such impact.

(2) REPORT.—Within one year after such date of enactment, the Commission shall submit a report on the evaluation to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

The CHAIRMAN. Pursuant to House Resolution 350, the gentleman from Michigan (Mr. UPTON) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I ask unanimous consent to yield 10 minutes of my time to the gentleman from Texas (Mr. GREEN) for his use and for him to yield that time to other Members as he sees fit.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the chairman of the Subcommittee on Telecommunications and the Internet, I am very pleased to offer this commonsense, bipartisan enforcement amendment with my good friend and colleague, the gentleman from Texas (Mr. GREEN).

When I became chairman last year, one of the first things I did was to invite the then new chairman of the FCC, Chairman Powell, to appear before the subcommittee to present his vision for that agency. The thing that struck me most was his message that the FCC's current enforcement authority was in fact too weak, and that the FCC's current fines were viewed by many as simply the cost of doing business for many companies.

□ 1415

And I heard that from many competitive carriers as well.

In a letter to Congress last year, Chairman Powell specifically wrote that, among other things, Congress should consider increasing the cap on fines to at least \$10 million in order to enhance their deterrent effect. The current cap, of course, is at \$1.2 million.

Responding to Chairman Powell's recommendation, we are, in fact, offering this bipartisan amendment which will substantially increase the FCC's fines for phone companies which violate the telecommunications law by elevating the current cap from \$1.2 million to \$10 million and increasing the amount up to which the FCC can impose per violation or each day of a continuing violation from \$120,000 to \$1 million. We did exactly what Chairman Powell requested.

In addition, for repeat offenders the amendment doubles the increased fines up to \$2 million per violation or each day of a continuing violation capped at \$20 million.

The amendment also doubles from 1 to 2 years the statute of limitations for the FCC to bring enforcement actions against phone companies, which will give the FCC a better opportunity to thoroughly investigate an alleged violation and bring charges. Chairman Powell also asked for this.

We also give the FCC clear, statutory cease and desist authority to use against phone companies which violate any of the telecommunications laws.

Finally, we direct the FCC to study the impact of the enhanced fines under the bill and report back to us, the Congress, one year after enactment.

The amendment applies to all common carriers. For example, it would affect not only a Bell company's violation of the Telecommunications Act but also a long distance company's slamming as well.

It is important to note that these substantially increased fines would not be the only enforcement mechanisms facing the Bell companies. For example, there is also the existing Section 208 complaint process at which the FCC through which a Bell company could be liable for damages. Moreover, some Bell companies must also pay if they fail to meet performance goals established by the FCC in their merger agreements, that was part of the Rush amendment that we accepted in the committee, not to mention the literally millions of State PUC-enforced performance measures penalties which get assessed as well.

We hope you will support our efforts to greatly enhance the FCC's enforcement authority as we seek to accelerate the deployment of broadband high-speed Internet access to underserved areas in our country through the passage of the underlying bill, H.R. 1542.

I want to thank in particular the gentleman from Florida (Mr. STEARNS), the gentleman from Nebraska (Mr. TERRY), the gentleman from Illinois (Mr. SHIMKUS), and the gentleman from New York (Mr. FOSSELLA), obviously, as well as my co-sponsor, the gentleman from Texas (Mr. GREEN), for their good work on this issue throughout the process. I would urge the passage of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, has anyone claimed time in opposition to the amendment?

The CHAIRMAN. The Chair does not see any Member rising in opposition.

Mr. TAUZIN. Mr. Chairman, as a supporter I would like to claim that time in opposition that we might use it to discuss the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. The gentleman from Louisiana (Mr. TAUZIN) claims the time.

Mr. TAUZIN. Mr. Chairman, I yield half of this time to the gentleman from Texas (Mr. GREEN).

The CHAIRMAN. The gentleman from Texas (Mr. GREEN) now has 15 minutes of debate time to control.

Mr. GREEN of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the chairman for making sure about the time, because I did not hear anyone claim any time in opposition either.

Mr. Chairman, I rise in strong support of the Upton-Green amendment, and it is an important addition to the Tauzin-Dingell bill. It will give the FCC more teeth to stop bad behavior if America's phone companies are actually doing that.

During the earlier debate we heard some of the horror stories, but this would actually raise the fees so it is no longer just the cost of the doing business. It actually has penalties in it.

Phones companies, if they slam and cram new phone charges to our constituents, will now face stiffer fines if our amendment is adopted.

Bell companies who may be acting in a manner that hurts competition will now face stiffer financial penalties from the FCC.

Working with my good friend, the gentleman from Michigan (Mr. UPTON), our amendment increases the FCC's forfeiture penalty tenfold. Currently, the FCC can only fine a company a total of \$1.2 million per violation. Under the Upton-Green amendment, the FCC will now be able to fine companies up to \$10 million per violation.

In addition, the amendment increases the fines the FCC can impose on continuing violations. Our amendment ups the FCC continuing violation to a cap of \$20 million.

FCC Chairman Michael Powell in a letter to Congress last year asked for this increase. We agree it is justified and reasonable.

Other provisions in the amendment double the statute of limitations for imposing a fine from 1 to 2 years, provides new cease and desist authority to the FCC as well.

Taken as a whole, I believe our amendment is not only a reasonable step but a consumer-oriented step towards better protecting our American consumers.

Phone companies may realize that their efforts to illegally boost profits on the backs of our constituents will no longer be tolerated. I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair miscalculated to the gentleman from Texas (Mr. GREEN) earlier about his total debate time, so the Chair will now review the amount of time remaining for each of the three Members controlling debate time.

The gentleman from Michigan (Mr. UPTON) has 6½ minutes, the gentleman from Louisiana (Mr. TAUZIN) has 10 minutes, and the gentleman from Texas (Mr. GREEN) has 18 minutes.

Mr. UPTON. Mr. Chairman, I yield 4 minutes to my friend and colleague,

the gentleman from Florida (Mr. STEARNS), the vice chairman of the Subcommittee on Telecommunications and the Internet of the Committee on Energy and Commerce.

Mr. STEARNS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise today in strong support of the amendment being offered by my good friend, the gentleman from Michigan (Mr. UPTON), and of course my colleague, the gentleman from Texas (Mr. GREEN). I am an original co-sponsor of this legislation which strengthens the FCC's enforcement ability.

As Congress and the FCC ensure the deregulatory progression of telecommunication sectors, proper enforcement mechanisms serve as necessary tools in protecting competition. Winners and losers should be picked by consumers and the marketplace, rather than outdated regulatory schemes. However, it is equally important to note that, absent regulation, meaningful enforcement must serve as one of key principals ensuring that competition and consumers are not harmed.

Mr. Chairman, I have met with industry representatives who tell me the FCC's current cap of \$1 million in penalties is insufficient to deter violation and oftentimes such fines are calculated into the cost of doing business. Furthermore, FCC Chairman Powell testified before the Committee on Energy and Commerce regarding the Commission's ability to deter violations through enforcement mechanisms. In fact, he testified, "The enforcement tools made available to us are inadequate with billion dollar industries. Our fines are trivial. They are the cost of doing business for many of these companies." As a matter of fact, they just make it part of doing business.

During this committee's consideration of H.R. 1542, the Broadband Deregulation Bill, the committee accepted one of my amendments creating specific and severe penalties totalling up to \$10 million for failure to comply with the specific legislation. Furthermore, the gentleman from Michigan (Mr. UPTON) and I offered an amendment enhancing the FCC enforcement authority under Title 5 of the Communications Act. While that amendment was not germane to H.R. 1542, many provisions of that legislation are now present in the amendment we are considering today.

Mr. Chairman, let me state that this amendment bill is not intended to favor ILECs, CLECs or IXC's over one another. The provisions in this bill are intended to equally apply to all common carriers. The FCC and State PUCs have existing laws on the books intended to ensure competitive competition thrives. This legislation will make certain the commission has a big bat, enough to enforce those laws and regulations.

With this legislation, we empower the FCC with enforcement powers, thus

ensuring common carriers will think twice about failing to comply with this Nation's telecommunications laws.

This amendment is centered upon Chairman Powell's recommendation enhancing the Commission's enforcement authority on common carriers. Specifically, this bill, as mentioned, enhances forfeiture penalties up to \$1 million for each violation for each day of a continuing series of violations and up to \$10 million for any continuing violation, and those fines are increased up to \$20 million if a company violates a cease and desist order or is a repeat offender.

Furthermore, as recommended by Chairman Powell, this legislation increases the statute of limitation for forfeiture against common carriers from one year to two.

Lastly, Mr. Chairman, this amendment brings up to date the tools the FCC will have at its disposal to punish and deter bad behavior. The last time the law was changed was in 1989. Furthermore, this amendment ensures that fines and penalties by the FCC are more than just mere calculations as a line item on balance sheets for violating companies. So I urge the adoption of this amendment.

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to the gentleman from the Big Apple, New York (Mr. FOSSELLA), a distinguished member of the Committee on Energy and Commerce.

(Mr. FOSSELLA asked and was given permission to revise and extend his remarks.)

Mr. FOSSELLA. Mr. Chairman, I rise in support of the amendment as well.

I commend the gentleman from Michigan (Mr. UPTON), the gentleman from Texas (Mr. GREEN), the gentleman from Michigan (Mr. DINGELL), and, of course, the chairman of the committee, the gentleman from Louisiana (Mr. TAUZIN).

I think the issue in the overall arching legislation comes down to where do we go from here and what is the role of government in deploying broadband across the entire United States; and rather than start here in Washington or in Congress, let us start back in my home town of Staten Island.

We got a call recently from a gentleman who said he does not have access to cable television but would like a DSL line in his home. We called the local Bell, and there is no plans whatsoever to deploy that to his home. So the issue then becomes what to do. Well, nothing as far as he is concerned, unless this legislation were to pass.

We cannot compel the local Bell to deploy broadband. We cannot compel the local cable operator to deploy broadband. What we can do and what I think what this legislation will do will encourage the deployment of broadband and then ultimately mandate it after 5 years. So that gentleman, not unlike more than 90 percent of the people across America, will now have a choice.

Now if I were to visualize it, there is a highway. There is a ramp that goes

on that highway. That highway is the broadband, that highway is access, that highway is just innovation, that highway is access for small business to communicate with other small business or family members to communicate with other family members, not just across Staten Island but across the world. But that access is limited to less than 10 percent of the American people and, by the way, most of whom are affluent.

What we have not done and, unless this legislation is passed, we will not encourage or actually mandate the construction of new ramps to allow more Americans, indeed all Americans, access to this wonderful thing we call the highway of broadband. Now, we can sit here and we can whistle Dixie or we can sing until the cows come home and say we hope for those ramps to be built, but unless this were to be passed that would not happen.

Let us remove the obstacles. Let us encourage the private sector and let competition reign and let the deployment of broadband take hold across the country. Let those ramps be built.

At the same time, what the amendment seeks to do is say and to stipulate to those Bells, for example, that if you violate any of these telecommunications laws you will be penalized and penalized severely. Is that not what it is all about? So it brings it back home for that gentleman that called and said, when am I going to get it?

Unless this bill is passed with this amendment, he may never get it. But if this bill is passed, then we will see broadband being deployed across the United States and America retain its rightful place as the leader in telecommunications and information technology and leave it up to the private sector to make those calls. Right now, that is the case.

Mr. GREEN of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ENGEL), a current member of the Committee on Energy and Commerce.

Mr. ENGEL. Mr. Chairman, I thank the gentleman from Texas (Mr. GREEN) for yielding me time.

Mr. Chairman, I rise in support of this amendment. I strongly support the underlying bill, but we can always make improvements to legislation. Again, this is an example of the proponents of the bill trying to be fair with the legislation, trying to have balanced legislation. That may not be legislation that everyone agrees with 100 percent, but on balance it is good and it is fair and that is what this amendment is trying to do.

Last year we not only installed a new President but a new Chair of the FCC. Michael Powell immediately impressed me when he said violators of telecommunications law, that he wanted the authority to hit them hard and hit them fast. We have that opportunity with this amendment to do just that.

Why should we? The fact is that with any regulation when a fine is imposed

it should be that it acts as a deterrent. But the present fines for violation of telecommunications law are low enough that paying them has been described as simply the cost of doing business.

□ 1430

This amendment changes that. This amendment will increase the fines by a factor of ten. A \$120,000-per-day fine is increased to \$1 million per day. The \$1.2 million cap for a violation is raised to \$10 million for a violation. And for repeat offenders, the new higher limits are double.

This will also expand the time in which the FCC has to bring an enforcement action against a violator from 1 to 2 years. Often we on the Subcommittee on Telecommunications and the Internet have been told that 1 year is just insufficient time for the FCC to properly investigate a potential violation. Again, this is an attempt to make this legislation balanced. It is why all my colleagues should support the underlying Tauzin-Dingell bill, and I urge my colleagues to support this amendment.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Nebraska (Mr. TERRY), a distinguished member of the Subcommittee on Telecommunications and the Internet of the Committee on Energy and Commerce.

Mr. TERRY. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of the Upton enforcement amendment.

This amendment will significantly strengthen the FCC's enforcement of the Telecommunications Act of 1996. Because of this amendment, the FCC will finally be given an enhanced enforcement opportunity, which is critical, which is critical to the ability to mandate compliance to the Tauzin-Dingell bill.

In a recent letter to Congress, FCC Chairman Powell noted that the FCC is limited in levying fines for any single violation to \$1.2 million. And due to the vast resources of many of the Nation's phone companies, this amount is insufficient to punish or deter violators. This amendment would address these concerns and raise the single-violation penalty ten times its current level, capping the penalty at \$10 million.

This reminds me of a recent city I went to and a parking ticket was \$10, but it cost \$20 to park in a parking lot. Where is the incentive? And during the hearings held by Chairman UPTON we learned from several of these companies that there is a disincentive to complying with the current FCC regulations. So I thank the gentleman for introducing this amendment to strengthen these fines and provide the proper incentive to comply.

Another part of this that I think is just as important as the monetary fine is the fact that they can issue orders to cease and desist their conduct of not

complying. This is an extremely important facet of this that we have not heard much discussion about. The FCC needs the ability to not only identify the conduct but order them to stop and apply meaningful fines. By increasing the penalties that the FCC can levy, the more phone companies will comply with the act and will provide services to areas they should be providing now and do not.

I thank Chairman TAUZIN and Chairman UPTON for bringing this to the floor. I am in support of it.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from Texas (Mr. BONILLA).

Mr. BONILLA. Mr. Chairman, I thank the gentleman from Louisiana (Mr. TAUZIN) for yielding me this time, and I rise in strong support of the Upton amendment and the Tausin-Dingell bill, which is long overdue.

Imagine for a moment running a company, a good company, a high-tech telecom company in this country that has been operating with handcuffs on for a long time, watching employees walk out the door to the tune of about 250,000 employees over the last year because we have been in an economic downturn. Now we are on the upturn again, and this will give it a tremendous boost. But imagine running a company with handcuffs on, where you cannot open the doors to more business, to have more people take advantage of the high-tech opportunities that many of us have had an opportunity to take advantage of so far. That is what we are talking about.

This bill takes off the handcuffs; and instead of having between 8 and 10 percent of the American people and businesses having access to broadband accounts, this will open up the floodgates and allow these great companies, and again let me read a couple of them to see who could be against Disney, who could be against Yahoo and Cisco and Packard and Compaq and Texas Instruments and AOL and Dell and Motorola and Microsoft and Intel and Hewlett Packard, and all of these good companies that have been a large part of our economic boom over the last 10 to 15 years who are suddenly finding themselves with the handcuffs on.

We need to take them off so that we can get these people back to work. And again not only do this for this country but to show the world the tremendous economic power that we have within our own borders to create more jobs for good Americans out there that are just waiting for opportunity.

Those who oppose us are simply saying, no, status quo, let us keep the handcuffs on and try to make it work under the current circumstances. That is absurd. Let us get these handcuffs off American businesses and strongly support this broadband bill. It is long overdue. We should have voted on this a year ago.

I am glad this day has finally come, and I look forward to great success

here this day at the end of this debate, and I look for others in this great city here in Washington to follow this lead that we are involved in here today.

Mr. GREEN of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I understand that the gentleman from Michigan (Mr. UPTON) is ready to close, and I do not have any more speakers. I guess the amendment is so popular everybody is just going to let it happen, and I am glad to say this makes a good bill even better.

Mr. Chairman, I yield back the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to say that one of the complaints about the bill as we originated it is that it took away one of the carrots that would encourage the local Bells to open up their local markets. What the gentlemen are doing with this amendment is making sure there is a stick there too; that the FCC can hammer the Bells any time they fail to open up their market, as required by the 1996 act.

This is a great amendment, and I commend both gentlemen for it.

Mr. Chairman, I yield back the balance of my time.

Mr. UPTON. Mr. Chairman, I yield myself such time as I may consume. I intend to close at this point as well.

I want to say from the outset that this bill not only in this Congress but in the last Congress as well was known to be a very strong bipartisan bill, Republicans and Democrats working together to unshackle the regulations off a new technology that is so important for our country.

The Tausin-Dingell bill does that. It was bipartisan in every way, as we have seen in the debate today. And as the new chairman of the subcommittee, my door was open to virtually every group. The concern I heard from virtually every group was that the FCC did not have the right authority to enforce the law. I welcomed the participation of virtually every member of the subcommittee to see this amendment through, both in committee, subcommittee, as well as today on the floor.

The gentleman from Texas (Mr. GREEN) has been a tremendous help not only on this issue but so many others as we have worked in a bipartisan fashion in our committee. I commend my chairman, the gentleman from Louisiana (Mr. TAUZIN), and the ranking member, the gentleman from Michigan (Mr. DINGELL), and I would urge all my colleagues to support the Upton-Green amendment.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding because it is important as we are about to adopt this amendment to understand that it does not just give the FCC the power to

punish a Bell for not opening up its local market, for not complying with the law, section 251, which is mandated but unenforced today.

It does more than say we are going to fine you and penalize you if you fail to do that. It contains authority that Mr. Powell and the FCC requested of our committee to order any Bell company to cease and desist and to enforce that order in court if any Bell company conducts itself in a fashion that is anti-competitive.

So what this amendment does and what makes it so very important to the bill is that it says while the Bells are allowed to get out and deploy the new broadband systems, they cannot forget their obligation to open up the local telephone markets to as much competition as we can get.

In short, this is a total competition bill, competition for telephone in the local market and enhanced competition in the Internet broadband market. This amendment completes the package in a big way.

Again, I commend it to all the Members' attention. Hopefully, it will be adopted unanimously. I thank the gentleman for yielding.

Mr. UPTON. Mr. Chairman, reclaiming my time, I urge adoption of the amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in strong support of this amendment which helps ensure competition by increasing the penalties and fines the FCC may apply against phone companies which violate the 1996 Telecommunications Act.

Such violations, when unchecked, can have severe anticompetitive effects, and may thwart the expansion of this important technology across all strata in the population, expressed as the digital divide.

Specifically, the amendment increases maximum fines per violation from \$120,000 to \$1 million per day, and caps continuing violations rising from \$1.2 million to \$10 million. It also doubles the penalty for repeat offenders per violation to \$2 million per day, with a cap of \$20 million for continuing violations.

The amendment also doubles from 1 year to 3 years the statute of limitations for the FCC to bring enforcement actions against phone companies, it give the FCC statutory "cease and desist" authority against companies that violate the rules. Finally, it directs the FCC to study the impact of these enhanced penalties and report its findings to Congress.

The amendment goes a long way towards monitoring and enforcing the delicate balance that exists in this industry. I urge my colleagues to support it.

Mr. UPTON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LINDER). The question is on the amendment offered by the gentleman from Michigan (Mr. UPTON).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. UPTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered

by the gentleman from Michigan will be postponed.

PART B AMENDMENT NO. 1 OFFERED BY MR. UPTON

The CHAIRMAN pro tempore. Proceedings will now resume on the amendment offered by the gentleman from Michigan (Mr. UPTON) on which further proceedings were postponed and on which the yeas prevailed by voice vote.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 421, noes 7, not voting 6, as follows:

[Roll No. 43]

AYES—421

Abercrombie	Cooksey	Green (TX)
Ackerman	Costello	Green (WI)
Aderholt	Cox	Greenwood
Akin	Coyne	Grucci
Allen	Cramer	Gutierrez
Andrews	Crane	Gutknecht
Armey	Crenshaw	Hall (OH)
Baca	Crowley	Hall (TX)
Bachus	Culberson	Hansen
Baird	Cummings	Harman
Baldwin	Cunningham	Hart
Ballenger	Davis (CA)	Hastings (FL)
Barcia	Davis (FL)	Hastings (WA)
Barr	Davis (IL)	Hayes
Barrett	Davis, Jo Ann	Hayworth
Bartlett	Davis, Tom	Herger
Barton	Deal	Hill
Bass	DeFazio	Hilleary
Becerra	DeGette	Hilliard
Bentsen	Delahunt	Hinchee
Bereuter	DeLauro	Hinojosa
Berkley	DeLay	Hobson
Berman	DeMint	Hoeffel
Berry	Deutsch	Hoekstra
Biggart	Diaz-Balart	Holden
Bilirakis	Dicks	Holt
Bishop	Dingell	Honda
Blagojevich	Doggett	Hooley
Blumenauer	Dooley	Horn
Blunt	Doolittle	Hostettler
Boehlert	Doyle	Houghton
Boehner	Dreier	Hoyer
Bonilla	Duncan	Hulshof
Bonior	Dunn	Hunter
Bono	Edwards	Hyde
Boozman	Ehlers	Inslee
Borski	Ehrlich	Isakson
Boswell	Emerson	Israel
Boucher	Engel	Issa
Boyd	English	Istook
Brady (PA)	Eshoo	Jackson (IL)
Brady (TX)	Etheridge	Jackson-Lee
Brown (FL)	Evans	(TX)
Brown (OH)	Everett	Jefferson
Brown (SC)	Farr	Jenkins
Bryant	Fattah	John
Burr	Ferguson	Johnson (CT)
Burton	Filner	Johnson (IL)
Buyer	Flake	Johnson, E. B.
Callahan	Fletcher	Johnson, Sam
Calvert	Foley	Jones (OH)
Camp	Forbes	Kanjorski
Cannon	Ford	Kaptur
Cantor	Fossella	Keller
Capito	Frank	Kelly
Capps	Frelinghuysen	Kennedy (MN)
Capuano	Frost	Kennedy (RI)
Cardin	Gallely	Kerns
Carson (IN)	Ganske	Kildee
Carson (OK)	Gekas	Kilpatrick
Castle	Gephardt	Kind (WI)
Chabot	Gibbons	King (NY)
Chambliss	Gilchrest	Kingston
Clay	Gillmor	Kirk
Clayton	Gonzalez	Klecza
Clement	Goode	Knollenberg
Clyburn	Goodlatte	Kolbe
Coble	Gordon	Kucinich
Collins	Goss	LaFalce
Combest	Graham	LaHood
Condit	Granger	Lampson
Conyers	Graves	Langevin

Lantos	Ortiz	Simmons
Larsen (WA)	Osborne	Skelton
Larson (CT)	Ose	Slaughter
Latham	Owens	Smith (MI)
LaTourette	Oxley	Smith (NJ)
Leach	Pallone	Smith (TX)
Lee	Pascrell	Smith (WA)
Levin	Pastor	Snyder
Lewis (CA)	Payne	Solis
Lewis (GA)	Pelosi	Souder
Lewis (KY)	Pence	Spratt
Linder	Peterson (MN)	Stark
Lipinski	Peterson (PA)	Stearns
LoBiondo	Petri	Stenholm
Loftgren	Phelps	Strickland
Lowe	Pickering	Stump
Lucas (KY)	Pitts	Stupak
Lucas (OK)	Platts	Sullivan
Luther	Pombo	Sununu
Lynch	Pomeroy	Sweeney
Maloney (CT)	Portman	Tancredo
Maloney (NY)	Price (NC)	Tanner
Manzullo	Pryce (OH)	Tauscher
Markey	Putnam	Tauzin
Mascara	Quinn	Taylor (MS)
Matheson	Radanovich	Taylor (NC)
Matsui	Rahall	Terry
McCarthy (MO)	Ramstad	Thomas
McCarthy (NY)	Rangel	Thompson (CA)
McCollum	Regula	Thompson (MS)
McCreery	Rehberg	Thornberry
McDermott	Reyes	Thune
McGovern	Reynolds	Thurman
McHugh	Riley	Tiahrt
McInnis	Rodriguez	Tiberi
McIntyre	Roemer	Tierney
McKeon	Rogers (KY)	Toomey
McKinney	Rogers (MI)	Towns
McNulty	Rohrabacher	Turner
Meehan	Ros-Lehtinen	Udall (CO)
Meek (FL)	Ross	Udall (NM)
Meeks (NY)	Rothman	Upton
Menendez	Roukema	Velazquez
Mica	Roybal-Allard	Visclosky
Millender-	Royce	Vitter
McDonald	Rush	Walden
Miller, Dan	Ryan (WI)	Walsh
Miller, Gary	Ryun (KS)	Wamp
Miller, George	Sabo	Waters
Miller, Jeff	Sanchez	Watkins (OK)
Mink	Sanders	Watson (CA)
Mollohan	Sandlin	Watt (NC)
Moore	Sawyer	Watts (OK)
Moran (KS)	Saxton	Waxman
Moran (VA)	Schaffer	Weiner
Morella	Schakowsky	Weldon (FL)
Murtha	Schiff	Weldon (PA)
Myrick	Schrock	Weller
Nadler	Scott	Wexler
Napolitano	Sensenbrenner	Whitfield
Neal	Serrano	Wicker
Nethercutt	Sessions	Wilson (NM)
Ney	Shadegg	Wilson (SC)
Northup	Shaw	Wolf
Norwood	Shays	Woolsey
Nussle	Sherman	Wu
Oberstar	Shimkus	Wynn
Obey	Shows	Young (AK)
Oliver	Shuster	Young (FL)

NOES—7

Baker	Otter	Skeen
Hefley	Paul	
Jones (NC)	Simpson	

NOT VOTING—6

Baldacci	Gilman	Sherwood
Cubin	Rivers	Trafficant

□ 1518

Messrs. HEFLEY, OTTER, BAKER and SKEEN changed their vote from “aye” to “no.”

Mr. MCINNIS and Mr. EVANS changed their vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. TAUZIN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LATOURETTE) having assumed the chair, Mr. LINDER, Chairman pro tem-

pore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1542) to deregulate the Internet and high speed data services, and for other purposes, had come to no resolution thereon.

REQUEST TO MAKE IN ORDER AMENDMENT NUMBER 3 AS AMENDMENT TO THE BILL DURING FURTHER CONSIDERATION OF H.R. 1-542, INTERNET FREEDOM AND BROADBAND DEPLOYMENT ACT OF 2001

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that during further consideration in the Committee of the Whole of the bill, H.R. 1542, pursuant to House Resolution 350, that the gentleman from Indiana (Mr. BUYER) be permitted to offer amendment No. 3 printed in House Report 107-361 as an amendment to the bill, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. BUYER. Mr. Speaker, reserving the right to object, since the Buyer-Towns amendment was an amendment to an amendment not made in order, and the committee has now risen, I would ask of the chairman of the Committee on Energy and Commerce to explain to the gentleman from New York (Mr. TOWNS) and me what he intends to do.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Apparently, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Utah (Mr. CANNON) have decided in the Committee of the Whole not to offer their amendment, and since the amendment drafted by the gentleman from Indiana (Mr. BUYER) and the gentleman from New York (Mr. TOWNS) is an amendment to their amendment, I must seek unanimous consent to have it offered as an amendment to the main bill in the Committee of the Whole, and that is why I have asked for this unanimous consent request.

Absent the granting of this unanimous consent request, it is my understanding the only way that we can get the Buyer-Towns amendment up would be if we defeated the previous question on the motion to recommit, in which case we will do so, if we are not granted this unanimous consent.

Mr. BUYER. Mr. Speaker, further reserving the right to object, I am hopeful that no one does object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. MARKEY. Mr. Speaker, I reserve the right to object in order to make this point to Members, which is that we have reached a juncture here whereby two amendments, the one made by